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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/678,328   | 10/03/2000  | Yasuo Takane         | 0905-0247P-SP       | 4817             |
| 7590   | 02/11/2004  |                      | EXAMINER            |                  |
| BIRCH, STEWART, KOLASCH & BIRCH, LLP<br>P.O.Box 747<br>Falls Church, VA 22040-0747 |             |                      | AGGARWAL, YOGESH K  |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2615                | 5                |
| DATE MAILED: 02/11/2004  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/678,328             | TAKANE ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Yogesh K Aggarwal      | 2615                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) 2-9, 11 and 12 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1, 10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 03 October 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

***Election/Restrictions***

1. Applicant's election without traverse of claims 1 and 10 in Paper No. 4 is acknowledged.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasaki (US Patent # 5,717,965).

[Claim 1]

A digital camera comprising:

a photometry device (figure1: 15) for performing photometry for each of the sections obtained by dividing an imaging area into a plurality of sections to output photometry values (col. 6 lines 50-54, col. 7 lines 12-14)[The imaging area represented by photometry element 9 is divided into 240 regions to perform divisional photometry by the photometry circuit 15];

an imaging device for imaging a subject, to output image data representing an image of the subject (col. 6 lines 39-41)[ The photometry device shown in figure 1 is used in a camera which is an imaging device];

an exposure control device (figure 1: 11) for controlling an amount of exposure in said imaging device on the basis of the photometry values outputted by said photometry device (col. 6 lines

55-60)[The calculation circuit 11 calculated luminance values and calculates exposure values based on the calculated data];  
a recording control device (figure 1: 10) for recording the image data outputted from said imaging device and data representing the photometry values, for each of the sections obtained by the division, which has been outputted by said photometry device (figure 1: 15) on a recording medium (figure 1: 13) with the image data and the photometry value data being related to each other (col. 6 lines 53-55)[The photometry values are stored in the memory 13 after they are A/D converted. Although not disclosed the image data is also stored in the same memory. Even if the image data is not stored in the same memory it is obvious to one of an ordinary skilled in the art that making a memory integral recording both the data output from the photometry device and the image data is *prima facie* obvious in the absence of new or unexpected results. See *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Regarding claim 10, this is a method claim corresponding to the apparatus claim 1. Therefore, claim 10 is analyzed and rejected as previously discussed with respect to claim 1 respectively.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - i. Uehara et al. (US PG-PUB # 2001/0038417).
  - ii. Fukuda (US Patent # 6,091,908).
  - iii. Kaji (US Patent # 5,838,370).
  - iv. Yamagishi (US PG-PUB # 2002/0057352).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K Aggarwal whose telephone number is (703) 305-0346. The examiner can normally be reached on M-F 9:00AM-5: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary examiner, Vu Le can be reached (703) 308-6613. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

YKA  
February 3, 2004

VU LE  
PRIMARY EXAMINER